In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 18-815V
Filed: September 5, 2019
UNPUBLISHED

MICHELLE MARIE COBENAIS,

Petitioner,

٧.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU); Damages Decision Based on <u>Proffer</u>; Influenza (Flu) Vaccine; Guillain-Barre Syndrome (GBS)

Troy Allen Poetz, Rajkowski Hansmeier Ltd., St. Cloud, MN, for petitioner. Traci R. Patton, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On June 8, 2018, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,² (the "Vaccine Act"). Petitioner alleges that she suffered Guillain-Barre Syndrome ("GBS") due to an influenza ("flu") vaccine administered to her on October 7, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 2, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for GBS. On September 3, 2019, respondent filed a <u>proffer</u> on award of compensation ("<u>Proffer</u>") indicating petitioner should be awarded \$120,000.00. <u>Proffer at 1</u>. In the <u>Proffer</u>, respondent represented that petitioner agrees with the <u>proffered</u> award. *Id.* Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website. This means the decision will be available to anyone with access to the internet. In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, <u>100 Stat. 3755</u>.

Pursuant to the terms stated in the attached <u>Proffer</u>, the undersigned awards petitioner a lump sum payment of \$120,000.00 in the form of a check payable to petitioner, Michelle Marie Cobenais. This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS OFFICE OF SPECIAL MASTERS

MICHELLE MARIE COBENAIS,)
Petitioners, v.	No. 18-815V Chief Special Master Dorsey ECF SPU
SECRETARY OF HEALTH AND HUMAN SERVICES,	
Respondent.))

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

Petitioner filed her petition for compensation on June 8, 2018, alleging that she suffered Guillain-Barre Syndrome ("GBS") as the result of an influenza vaccination. On April 30, 2019, respondent filed a Rule 4(c) Report, conceding that entitlement to compensation was appropriate under the terms of the Vaccine Act. Chief Special Master Dorsey issued a Ruling on Entitlement on May 2, 2019, finding that petitioner was entitled to vaccine compensation for her GBS.

I. Compensation for Vaccine Injury-Related Items

Based on the evidence of record, respondent proffers that petitioner should be awarded \$120,000.00. The \$120,000.00 represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner be made through a lump sum payment of \$120,000.00, in the form of a check payable to petitioner. Petitioner agrees.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future pain and suffering.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

JOSEPH H. HUNT Assistant Attorney General

C. SALVATORE D'ALESSIO Acting Director Torts Branch, Civil Division

CATHARINE E. REEVES Deputy Director Torts Branch, Civil Division

ALEXIS B. BABCOCK Assistant Director Torts Branch, Civil Division

s/Traci R. Patton
TRACI R. PATTON
Senior Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Telephone: (202) 353-1589

Dated: September 3, 2019